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United States Department of the Interior
Bureau of Land Management

Great Falls Resource Area
Lewistown District Office

January 1993

Fina Oil and Chemical Company Exploratory Oil/Gas Well Federal South Glacier No. 1-26 RECORD OF DECISION



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United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Great Falls Resource Area Office
812 14th Street North
Great Falls, Montana 59401

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Dear Reader:

On February 19, 1991, a joint decision was made by the Forest Service, Lewis and Clark Forest Supervisor, and the Bureau of Land Management (BLM), Great Falls Resource Area Manager, to approve the Application for Permit to Drill (APD) submitted by Fina Oil and Chemical Company on their lease on the Rocky Mountain Ranger District, Lewis and Clark National Forest, Glacier County, Montana. The decision was based on the Final Environmental Impact Statement (FEIS) for the Exploratory Oil and Gas Wells -- Proposed Oil and Gas Drilling near Badger Creek and Hall Creek.

The decision would allow Fina to build approximately 4.5 miles of access road on National Forest Land to drill a single exploratory well to determine if geologic structures contain accumulations for oil and/or natural gas. If the well is dry, the access road and well pad would be reclaimed. Should the well encounter commercial quantities of oil and/or gas, additional environmental analysis will be conducted.

The approval of the Surface Use and Operating Plan includes a strict set of mitigation measures that will minimize the impacts of the project on other surface resources and Forest users.

The BLM subsequently received four requests for State Director Review of the Area Manager's decision that claimed the BLM was responsible for reviewing surface effects on national forest land. In response, the Area Manager's decision was rescinded and the BLM conducted further analysis and an independent review of the surface related issues addressed in the FEIS to determine if compliance with all applicable laws had been accomplished. The results of that review have led to the issuance of this, a second Record of Decision, by the BLM Area Manager. For the reader's convenience and better understanding of the history and issues surrounding this proposal, the February 19, 1991, Record of Decision (ROD) is reprinted, essentially in its entirety.

As a result of this review I have determined that the FEIS for the Fina APD complied with all applicable laws and regulations, and that the February 19, 1991, ROD issued by the Forest Service is proper and should stand. I, therefore, approve the Fina APD, with signatory concurrence from the Montana BLM State Director and Department of Interior's Assistant Secretary for Land and Minerals, as indicated by the signatures on the attached ROD. This decision, with concurrence from Interior's Assistant Secretary for Land and Minerals, constitutes final agency action for the Department of the Interior.

Copies of the February 19, 1991, joint ROD and the associated FEIS are available for viewing at several Forest Service and BLM offices in Montana. Please contact the Lewis and Clark National Forest, P.O. Box 869, Great Falls, MT, 59403, for a complete list of viewing locations.

Sincerely,

Richard L. Hopkins

Richard L. Hopkins
Area Manager

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RECORD OF DECISION

FINA OIL AND CHEMICAL COMPANY EXPLORATORY OIL/GAS WELL FEDERAL SOUTH GLACIER NO. 1-26

JANUARY 1993

Prepared by:
U.S. Department of the Interior
Bureau of Land Management
Great Falls Resource Area
Lewistown District

For further information, contact:
Richard Hopkins, Area Manager
Great Falls Resource Area
812 14th Street North
Great Falls, MT 59401
(406) 727-0503

APPROVED:

I approve the Fina APD, Federal South Glacier No. 1-26, Alternative A2. The APD is subject to Fina Adopting the mitigation measures discussed in Chapter V of the FEIS and included in this ROD in Appendix A, Conditions of Approval.



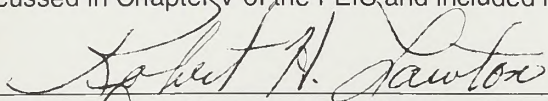
Richard L. Hopkins, Great Falls RA Manager, BLM

1-12-93

Date

CONCURRENCE:

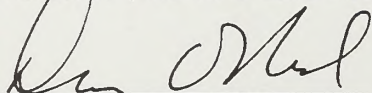
Based on the decision of the Great Falls Resource Area Manager, I hereby concur with approval of the Fina APD, Federal South Glacier No. 1-26, Alternative A2. The APD is subject to Fina adopting the mitigation measures discussed in Chapter V of the FEIS and included in this ROD in Appendix A, Conditions of Approval.



Robert H. Lawton, Montana State Director, BLM

1-14-93

Date



David C. O'Neal, Assistant Secretary, Land & Minerals Management

1-14-93

Date

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RECORD OF DECISION

FINA OIL AND CHEMICAL COMPANY EXPLORATORY OIL/GAS WELL FEDERAL SOUTH GLACIER NO. 1-26

I. INTRODUCTION

A. The Decision Being Made

The decision being made is whether or not to approve the Application for Permit to Drill (APD) for Federal South Glacier No. 1-26, submitted by Fina Oil and Chemical Company (Fina) on October 18, 1983. Fina proposes to drill and evaluate the production potential of a single exploratory well on Federal Lease M-53323 in the Hall Creek area of the Lewis and Clark National Forest. The proposed well site is located in SE1/4NE1/4 Section 26, Township 30 North, Range 13 West, Glacier County, Montana.

The proposed project includes approximately six miles of road construction and reconstruction, and drilling a well approximately 13,500 feet deep to evaluate the oil and/or gas potential of geologic structures underlying the lease acreage. The project is expected to take eight months to complete. If hydrocarbons are present, production potential would be evaluated using standard testing methods and equipment.

The primary basis for this decision is an analysis conducted by the U.S. Forest Service and Bureau of Land Management (BLM). This analysis is documented in the Final Environmental Impact Statement (FEIS) for Exploratory Oil and Gas Wells Near Badger Creek and Hall Creek, published in October, 1990.

B. Decisions Not Being Made

This decision does not encompass or entail approval of any production or development activities beyond the drilling of a single exploratory well.

The FEIS documents the direct, indirect, and cumulative effects which may result from the drilling of such a well, and from a range of reasonably foreseeable development scenarios. These scenarios include 1) a dry hole, 2) production from a single well, and 3) production from an oil and/or gas field. Thus, the analysis assumes that additional wells, pipeline transportation corridors, and production facilities may be developed. These assumptions do not represent proposed or planned activities. They were analyzed in the FEIS to disclose the range of long term effects which may result from the drilling of a single exploratory well.

C. Authority for the Decision

The Secretary, U.S. Department of the Interior, is authorized to make this decision under the terms of the Mineral Leasing Act, as amended and supplemented (30 U.S.C. 181 et seq.).

D. Background Information

Federal Lease M-53323 was issued on June 1, 1982, with a term of ten years. The lease was scheduled to terminate on May 31, 1992, if hydrocarbons were not found in commercial quantities on or before that date.

However, because of the time needed to complete environmental analysis and documentation required by the National Environmental Policy Act and other laws, the BLM has suspended the terms of expiration for this lease.

An Environmental Assessment (EA) for the Fina proposal was completed by the Forest Service and the BLM and a Decision Notice permitting the company to drill was issued on January 31, 1985. Nine appeals from that decision were filed with the Interior Board of Land Appeals (IBLA). On August 9, 1985, IBLA remanded the case to BLM for further consideration on four points. These points were addressed and resolved as explained below.

Point 1. IBLA asked BLM to determine the need to assess the cumulative effect of the proposed action and contemplated logging activities in the area of the study.

This concern was resolved by the Forest Service removal of the commercial timber base in the area from the Lewis and Clark National Forest Land and Resource Management Plan (Forest Plan). No timber sales or related activities are contemplated, and therefore an assessment of cumulative effects related to logging is not needed.

Point 2. IBLA asked BLM to reconsider and address the possible effect of a discovery of an archaeological site on the location of the proposed access road.

This concern was resolved by surveying the access route for archaeological sites. The route has been cleared for construction (Cultural Resource Report 85-LC-1-27).

Point 3. IBLA asked BLM to take further action deemed necessary because the January 14, 1985, "no jeopardy" opinion from the U.S. Fish and Wildlife Service was contingent upon the ability to close the proposed road to all but drilling related activity. IBLA was principally concerned with the agencies' ability to enforce road closure against the members of the Blackfeet Tribe.

This concern was resolved based on legal opinions of the Department of the Interior Field Solicitor and the Department of Justice United States Attorney, which found that the Forest Service has the authority to restrict access on the proposed access road. The closure of the road to motorized vehicle use by the general public, and to Blackfeet Tribal members, is an appropriate mitigation measure that does not diminish existing rights of access. Therefore, the Forest Service can restrict use of the road to persons directly connected to the drilling operation. The Forest Travel Plan implemented in 1988 establishes travel restrictions. An interagency Law Enforcement Plan outlines prevention and enforcement actions to be taken on National Forest System lands.

Point 4. IBLA asked BLM to take further action deemed necessary because the January 14, 1985, "no jeopardy" opinion was contingent upon the implementation of an active interagency law enforcement program.

This concern was resolved by the preparation and distribution of a Law Enforcement Plan involving appropriate agencies. The Plan was signed by the U.S. Fish and Wildlife Service, the Bureau of Land Management, the Bureau of Indian Affairs, the Montana Department of Fish, Wildlife and Parks, the National Park Service, and the Forest Service. The Blackfeet Tribe has not signed the Plan. However, neither the IBLA nor the Fish and Wildlife Service require the Blackfeet Tribe to be a party to the Plan. Most activities outlined in the Law Enforcement Plan are currently being conducted. The Plan will be fully implemented upon approval of the APD.

Following resolution of these issues, a second Decision Notice was issued by BLM on April 13, 1987 and eleven appeals were subsequently filed with IBLA on this decision. A stay of action was granted by IBLA. At the request of the Forest Service, the Fina decision was returned to the agencies so that the Fina and Chevron proposals (discussed below) could be analyzed together.

In November 1985, Chevron, USA of Denver, Colorado submitted an APD for an exploratory well on Federal Lease M-25173, located northeast of Goat Mountain in Section 35, Township 29 North, Range 12 West, Pondera County, Montana. In December 1987, the agencies decided to combine the analysis of Chevron's and Fina's proposals into one comprehensive Environmental Impact Statement (EIS) because of concerns that surfaced from the

appeals of the Fina decision, and a recognized need to more fully evaluate the potential cumulative effects of two similar actions in the same geographic area.

When the two projects were combined into a single analysis, additional public comment was requested. Information gained from the public involvement process and agency analysis resulted in the development of alternatives to the proposed action. Twelve preliminary alternatives to the proposed action were identified, including alternatives which would require a change in existing lease terms. Five of these were determined to be technically, administratively, or economically unreasonable. The seven remaining alternatives, including no action, were analyzed in depth.

The Forest Service was the lead agency responsible for completion of this comprehensive EIS. The BLM participated as a cooperating agency, with primary responsibility for analysis and documentation related to the Drilling Plan and Hydrogen Sulfide Contingency Plan. BLM specialists participated as interdisciplinary team members, serving as primary authors in such areas as petroleum engineering, planning, and production, air quality and noise, and socioeconomics. BLM managers and staff also participated in the preparation and pre-publication review of both the Draft EIS and FEIS.

The FEIS analyzes and discloses the potential environmental consequences of approving two APDs in the North End Geographic Unit of the Rocky Mountain Ranger District. Mitigation measures and a project monitoring plan were developed and disclosed in the FEIS. Mitigation measures are designed to eliminate, avoid, or minimize potential impacts of the selected alternative. Monitoring of project activities is used to evaluate the effectiveness of the mitigation measures, the effects of the project, and how well the objectives are being met.

On February 19, 1991, the Forest Supervisor of the Lewis and Clark National Forest and the Area Manager of BLM's Great Falls Resource Area issued a Record of Decision (ROD) which only applied to the Fina proposal. Alternative A2 was selected to guide the drilling of the exploratory well. The Forest Supervisor approved Fina's Multi-Point Surface Use and Operating Plan conditioned upon Fina adopting the mitigation measures identified in the FEIS. The Area Manager approved the APD, which included the Drilling Plan and the Hydrogen Sulfide Contingency Plan. The Area Manager also noted that he was "adopt(ing) the decision made by the Forest Supervisor to approve the Surface Use and Operating Plan and the Conditions of Approval stated in Appendix A of this document" (ROD, page 4).

A Record of Decision was not prepared for the Chevron APD.

The February 19, 1991, Fina ROD included a summary of appeal procedures to be used. Decisions relating to surface uses on National Forest System lands were to be appealed to the Forest Service, and decisions related to the approval of the Drilling Plan and the Hydrogen Sulfide Contingency Plan were to be reviewed by the BLM State Director.

Subsequently, the Forest Service received 47 appeals and the BLM received six requests for State Director Review (SDRs). During May 1991, four of the SDRs were dismissed by the BLM because they were limited to surface related issues covered in the Forest Service Surface Use and Operating Plan. The State Director affirmed the decision of the Great Falls Area Manager on the other two SDRs.

The parties who were denied review of surface related issues by the BLM State Director submitted appeals to IBLA in June 1991. On July 18, 1991, counsel for the BLM asked IBLA to remand the matter to BLM for further review. IBLA approved this request for remand on August 5, 1991.

Just prior to that approval, on July 31, 1991, the Forest Service affirmed the Forest Supervisor's decision on all 47 appeals they had received. On that same day, BLM notified Fina that their APD was stayed until further notice. A month later, the Area Manager's decision on the APD was rescinded.

Following IBLA's August 5, 1991, remand to BLM, managers and resource specialists from the Lewistown District and the Great Falls Resource Area conducted an independent field and office review of the FEIS and supporting information. The primary purpose of this review was to assure that the BLM had complied with the National Environmental Policy Act (NEPA) regulations in adopting the FEIS as a cooperating agency (40 CFR 1506.3(c)).

A BLM team representing hydrology, wildlife, fisheries, vegetation, surface protection, recreation, cultural, and other disciplines was assembled to accomplish this review.

The review focused on surface related issues for which the Forest Service had accepted primary responsibility during EIS preparation. The review was also intended to assure that the Area Manager's decision on the APD, including his "adoption" of the Surface Use and Operating Plan, was in compliance with all applicable laws, including NEPA, the National Historic Preservation Act, the American Indian Religious Freedom Act, and the Endangered Species Act. The review considered surface related concerns raised in the earlier appeals and SDRs. The completion and findings of this review now permit the issuance of this ROD.

This decision applies only to the Fina proposal. A separate ROD will be issued dealing specifically with the Chevron project. In order to fulfill our responsibilities under the American Indian Religious Freedom Act and Section 106 of the National Historic Preservation Act, a decision on the Chevron proposal will not be issued until all necessary evaluations and consultations are completed.

II. CONSULTATION AND PUBLIC INVOLVEMENT

A. Consultation with Other Agencies

Since the filing of the APD in 1983, the BLM and/or Forest Service have consulted with various Federal and State agencies, local governments, and Tribal government officials. The interdisciplinary team responsible for preparing the Draft and Final EISs was composed of individuals from the Forest Service, BLM, Bureau of Indian Affairs, National Park Service, Montana Department of Fish, Wildlife and Parks, and the Blackfeet Tribe. Every effort was made to comply with all applicable laws and regulations, both State and Federal. A listing of the primary agencies consulted in the EIS process is included in the FEIS (Chapter VII-4). Agency concerns and resolution of those concerns are included in Appendix P of the FEIS.

A particular focus of the agencies' extensive consultation effort was the discussion of traditional cultural and religious issues or concerns. Several public meetings with tribal government representatives and tribal members were held. Representatives from the Flathead and Lewis and Clark National Forests, Glacier National Park, BLM, and Bureau of Indian Affairs met on several occasions in Browning to discuss Blackfeet concerns over activities in the North End Geographic Unit during the preparation of the EIS. Numerous additional meetings with the designated Tribal Cultural Committee and with recognized traditionalists and elders were held in informal settings on the Blackfeet Reservation. Many personal contacts with recognized Tribal elders or traditionalists were made by a Forest Service cultural resource specialist with training and expertise in ethnohistory. In addition, a literature search of documents relating to the Blackfeet culture was conducted by Forest Service cultural resource specialists to provide background information for an ongoing ethnographic study of the Badger-Two Medicine area. These efforts were specifically intended to elicit information about traditional cultural or religious practices to meet American Indian Religious Freedom Act responsibilities, and about specific cultural properties to meet National Historic Preservation Act requirements.

The Forest Supervisor also consulted with the Blackfeet Tribal Business Council regarding reserved rights issues prior to making his February 19, 1991 decision. On October 10, 1989, copies of the Draft EIS were sent to the Tribal Council. The Tribal Council was provided with nine copies of the FEIS on November 27, 1990, and comments were requested. On January 9, 1991 a second letter was sent to the Tribal Council again requesting their comments on the FEIS and offering to discuss their concerns regarding Blackfeet legal issues. Prior to issuance of the February 19, 1991 ROD, the Forest Supervisor had not received a reply from the Council on the FEIS. Between the Draft and Final EIS, he had additional correspondence with the Council inviting comment and he and Regional Forester John Mumma met with members of the Tribal Council on September 24, 1990 in Browning to discuss issues regarding the Badger-Two Medicine area.

B. Public Involvement in Identifying Issues

Issues for the Fina project were originally defined through the scoping conducted in December 1983-January 1984 for the Hall Creek EA, prepared by the agencies in 1985. An interdisciplinary team identified issues following a review of the Fina APD and verification of the accuracy and adequacy of the preliminary list of issues identified during public scoping efforts. A subsequent scoping effort, announced in the Federal Register on February 23, 1988, was conducted in February and March of 1988 to solicit comments on the combined Chevron/Fina EIS. A scoping package was mailed to approximately 350 people to notify them of the decision to combine the Chevron and Fina analyses into a single, comprehensive EIS. This package requested their assistance in refining or identifying the issues to be addressed in the environmental analysis. No completely new issues were identified during this scoping period. Most of the eight comments received were a reiteration or expansion of the issues previously identified in either the Hall Creek EA or the original Chevron scoping (FEIS, Chapter VII).

In considering the North End Geographic Unit as a whole, the most significant issues that were identified evolved around the need for “roadless” management or wilderness, and Blackfeet legal and cultural issues. There was also a strong concern that the Forest Service protect wildlife and continue the present multiple use management strategy in the North End Geographic Unit. Those appealing for denial of the Fina drilling project cited numerous reasons for such a decision. These included the need for more wilderness, the need to protect wildlife (including the grizzly bear), the need to protect Blackfeet traditional culture and religion, and the need to defer any activity in the North End Geographic Unit until Congress passes legislation to designate the area wilderness or to resolve perceived Blackfeet treaty rights issues.

A review by the ID team of all scoping material available, previous Fina decision appeals in 1985 and 1987, and Forest Plan appeals formed the basis for issue identification. Both the Draft and Final EISs addressed these issues. The issues are characterized in items 1 through 15 below.

1. In addition to exploration drilling, where and what type of hydrocarbon production systems and facilities are appropriate for the project area? This issue raises the question of what effects will occur on access, seasonal activities, and safety during exploratory drilling and production, including potential development levels, activity corridors, facilities, and equipment for each alternative. This issue reiterates concerns raised in the original Fina Environmental Assessment that the analysis was weak in its assessment of foreseeable activities, including production, field development and abandonment. Consequently, three reasonably foreseeable development scenarios were addressed in the EIS.
2. What will be the effects on surface and groundwater quality? Some comments indicated a need to address effects on surface and ground water from construction activities, drilling fluids, and production facilities. Water use and water rights issues were also raised.
3. What will be the effects on air quality within and adjacent to the project area? Concerns included the effects on air quality from road dust, engine emissions and slash burning, and the potential effects of hydrogen sulfide and other released gases. The concerns included air quality effects within and adjacent to the project area during exploration drilling phases, and in the event of future activities.
4. How will access be managed to accommodate other resources and uses? The wide variety of concerns expressed include trail and road management under the Forest Plan and Travel Plan, road use and limitations during drilling, and post drilling access opportunities and effects. Post drilling reclamation strategies were identified as a major concern for both exploration and production activities.
5. What will be the effects on Glacier National Park and adjacent wilderness? This was a significant issue to many commentors, and raised the concern for the effects of both proposed exploration and possible subsequent activity on Park and wilderness-related values, including air quality, noise, vegetation, wildlife, and visual values.
6. How will the project affect the wilderness characteristics of roadless lands in the Badger-Two Medicine area? This issue questioned effects on the roadless character of the area from both proposed exploratory drilling and possible future oil and gas activity. The roadless issue proved to be a major concern throughout the EIS

process. While the proposed Fina project lies outside of the Badger-Two Medicine inventoried roadless area, substantial interest was expressed on both the Draft and Final EISs to consider the entire North End Geographic Unit for roadless management or wilderness.

It should be noted that the EIS addressed the effects of drilling activities on wild lands and wilderness-related values. The area is not designated wilderness and is being managed under the Forest Plan for a variety of uses, including oil and gas exploration (Chapter III-29, Map 3.6).

7. What will be the effects on wildlife, including threatened and endangered species? This issue questioned the effects of the proposed project on the following wildlife and their habitats: grizzly bear, wolf, bald eagle, peregrine falcon, elk, moose, bighorn sheep, mountain goat, deer, black bear, furbearers, and nongame species. Wildlife management issues have long been major public issues along the Rocky Mountain Front. This issue addresses concerns raised by a significant number of individuals and organizations, and several Federal and State agencies having some level of wildlife management responsibility. The BLM worked cooperatively with the Forest Service, Glacier National Park, U.S. Fish and Wildlife Service, Bureau of Indian Affairs, Blackfeet Tribe, and Montana Department of Fish, Wildlife and Parks in addressing wildlife issues. The Interagency Rocky Mountain Front Wildlife Guidelines were important considerations in the analysis.
8. What will be the effect on fisheries? There were some concerns raised questioning the effects on fisheries from road construction and crossings, diversion structures, and increased fishing pressures. There were also concerns regarding the effects of possible contaminants such as petroleum and hydrogen sulfide gas.
9. How would vegetation be affected? Concerns raised were for the damage to existing vegetation (including sensitive, threatened and endangered species) from possible introduction of chemicals, herbicides and noxious weeds.
10. What will be the effects on visual quality and dispersed and developed recreation? The visual quality concerns questioned potential changes in visual condition from existing travelways and as seen from Glacier National Park. The recreation issue encompasses effects on recreation opportunities, activities, resources, potential Wild and Scenic Rivers, and the Continental Divide National Scenic Trail. This is an important issue with respect to the Forest Plan. Recreation is an important management element in the Forest Plan.
11. How will the proposal affect cultural values? Concerns were raised about the effects that exploration and possible production may have on traditional Blackfeet culture and religious practices and archaeological and cultural properties. Compliance with the American Indian Religious Freedom Act and National Historic Preservation Act were also issues. A significant amount of comment was received on both the Draft and Final EISs for protecting Blackfeet cultural and religious values. Most of the comment indicated a need to protect the entire North End Geographic Unit from oil and gas activity. The comments did not identify any cultural sites or traditional use areas specific to the Fina project area. No archeological sites in the project area were determined to be eligible for listing on the National Register of Historic Places, and no traditional cultural properties were found in the project area.
12. How will the project affect rights reserved by the Blackfeet Nation under the 1896 Agreement? Concerns expressed include potential effects on Blackfeet hunting and fishing rights, Blackfeet timber rights, and Blackfeet rights to access the North End Geographic Unit. Road closure restrictions and road reclamation concerns were also expressed.

The North End Geographic Unit is within the area that was once part of the Blackfeet Indian Reservation. The Agreement of 1896 between the Blackfeet Nation and the United States reserved certain use rights on these lands for members of the Blackfeet Nation. The Lewis and Clark Forest Plan contains management standards for any decision with respect to these lands. The North End Geographic Unit is commonly referred to as the Blackfeet Unit by the Blackfeet.

13. What will be the social and economic benefits and costs associated with this project? Economic concerns expressed include employment, population changes, earnings, housing, and public finance. Questions about the social effects on local communities and interest groups were also raised. Numerous comments were

received on the Draft EIS, including comments from Montana's Governor, and from County Commissioners in three local counties, that appealed to the BLM and Forest Service to allow oil and gas exploration on Federal lands to enhance economic stability and to alleviate depressed economic conditions in these northern Montana counties.

14. Will the project affect health and safety for humans and wildlife in the immediate area and nearby communities? Health and safety concerns expressed mostly by the local public included emergency plans for blowouts, health risks from hydrogen sulfide and other released gases, road use safety, and potential problems from accidental release of potentially hazardous chemicals.
15. An additional concern that surfaced during the review of the Draft and Final EIS was how environmental considerations and stipulations identified at the time of lease issuance were considered in the Final decision and how the project is consistent with Forest Plan management direction. This concern is addressed in Chapter I. E of the FEIS. Additional comments on lease issues are addressed herein as Issue 15 in the Rationale for the Decision section.

C. Summary of Public Involvement on the Draft and Final EISs

Public and agency comment was solicited on the Draft EIS from October 10, 1989 through December 15, 1989 (FEIS, Chapter VII-6 and 7). The Draft addresses 33 combinations of alternatives (FEIS, Chapter II-55). The document also addresses the Chevron and Fina proposals independently. Draft documents were mailed to about 300 individuals. In addition, copies of the Draft EIS were mailed to seven libraries in Helena, Missoula, Great Falls, Browning, and Cut Bank. Copies were also available at Forest Service offices in Great Falls, Choteau, and Missoula, and BLM offices in Great Falls, Lewistown, and Billings. Articles concerning the availability of the Draft EIS and information on the comment period regularly appeared in the media, including newspapers, radio stations, and television stations, throughout the comment period. During the first two weeks of November 1989, open house sessions were held in Missoula, East Glacier Park, Browning, Cut Bank, and Great Falls to answer questions, provide information, and solicit public comment.

Over 1100 documents including letters, postcards, petitions, and preprinted forms were received on the Draft EIS. Microfiche copies were made of all comments on the Draft EIS and were made available for public review (FEIS, Chapter VII and Appendix P). Copies of the microfiche were mailed to all libraries that received a copy of the Draft EIS. The public was informed of the availability through news releases sent to radio and television stations and newspapers.

All comments received on the Draft EIS were analyzed both individually and collectively. Chapter VII in the FEIS lists agencies, organizations, and individuals who made comments and the comments made. Comments were assigned to categories corresponding to the fifteen identified issues. Each comment under the specific category has a written response prepared by the Forest Service and/or BLM, depending on the nature of the comment. Responses to comments included improving or modifying some part of the analyses, factual corrections, and adding information. Additions or changes between the Draft EIS and Final EIS were highlighted in bold print in the FEIS. Based on individual, organization, Congressional, Blackfeet Tribal, State, and Federal agency comments, an additional 200 pages of text were added to the Draft EIS.

On December 3, 1990, the FEIS was distributed. Because of the length and complexity of the document, time was allowed to give the public an opportunity to review the changes made in response to their comments on the Draft EIS, and to comment on the FEIS prior to the agencies issuing a decision. The FEIS with appendices is a lengthy document that requires considerable time to read in detail. The agencies determined that the changes made between the Draft EIS and Final EIS did not require a supplement to the Draft EIS or a revised draft because the changes did not result in substantive changes to the proposed action and its environmental impacts (40 CFR 1502.9).

Comments on the FEIS were accepted until January 11, 1991. From the time the FEIS was distributed to the effective date of the Forest Supervisor's February 19, 1991 decision, the public had 75 days to review the FEIS. An additional 45 days for review was provided beginning on the effective date of that decision. Approximately 190

documents directly related to the contents of the FEIS were received. The comments provided no new information and were found to be a repeat of comments received on the Draft EIS and already responded to in the FEIS. The FEIS was determined to fully disclose the effects of the alternatives considered, and to provide an adequate basis for the decision to be made.

On January 10, 1991 a petition containing approximately 9,000 signatures was delivered to the Forest Supervisor's Office in Great Falls, Montana. This petition, directed to the United States Congress, urges "legislation which would protect the spiritual, cultural, wildlife and wilderness values of the Badger-Two Medicine Area while suspending all U.S. Forest Service activities pertaining to oil and gas leasing." While the Forest Supervisor respected the opinions and feelings of individuals desiring wilderness or roadless status for the Badger-Two Medicine Area, he determined that the Lewis and Clark Forest Plan EIS issued in 1986 adequately analyzed the area's wilderness and roadless characteristics and potential for wilderness designation. The Forest Plan does not recommend wilderness designation for the area but, instead, accommodates oil and gas exploration and development and gives reasons why a wilderness recommendation was not made. Although the Forest Plan can be amended to reflect changes, it was not the Forest Supervisor's intent to recommend amending the Forest Plan based on petitions received on this EIS. The Forest Supervisor noted that the EIS process is not a referendum and that others, should they choose to do so, could generate petitions for other uses of the area. He also noted that the Fina site is outside of any inventoried roadless area and the drilling proposal is consistent with management direction for the area contained in the Lewis and Clark Forest Plan.

By letter of January 14, 1991, Forest Service Chief Dale Robertson agreed to delay implementation of the Fina decision for 90 days. This commitment was made in response to a request by U.S. Senator Max Baucus to delay implementation of the project for 90 calendar days while Congress was in session. This 90 day delay ran concurrently with the 45 day period provided in the Forest Service appeal regulations.

III. DECISION

Based on independent review of information analyzed and disclosed in the FEIS, public comments, appeals and SDRs, legal opinions, IBLA and Court decisions, the Forest Plan, and associated documents that the FEIS is tiered to or incorporates by reference, it is my decision to approve, in its entirety, the Fina APD. My decision is subject to Fina adopting the mitigation measures discussed in Chapter V of the FEIS and included in this ROD in Appendix A, Conditions of Approval. The APD, in its entirety, includes the Drilling Plan, Hydrogen Sulfide Contingency Plan, and the Surface Use and Operating Plan as approved by the Forest Supervisor.

I also approve the monitoring plans as outlined in Appendix Q of the FEIS. BLM inspectors will monitor operations to assure compliance with all applicable regulations. BLM will witness certain operations including reserve pit construction, setting of casing, cementing, and, if the well is nonproductive, plugging of the wellbore. These provisions, along with monitoring activities provided for in the Forest Supervisor's decision, will assure timely information to evaluate the effectiveness of mitigation measures, the effects of the project, and the success of reclamation measures. The Hydrogen Sulfide Contingency Plan, which includes provisions for H₂S monitoring, also details procedures to be followed in the event of a hydrogen sulfide emergency.

I concur in the Forest Supervisor's decision to select Alternative A2 to guide the drilling of one exploratory well. As stated in the Forest Supervisor's decision, Alternative A2 provides for road access to the proposed well site located in the upper Hall Creek drainage. Access is from U.S. Highway 2 at False Summit. The road will leave Highway 2 in the NW1/4 of Section 15, Township 30 North, Range 13 West and proceed through Sections 14, 15, and 23, then join an existing jeep trail in Section 22 and continue to the well site. Both new construction (5.7 miles) and reconstruction (0.3 miles) of existing roadways is required. A temporary bridge across the South Fork Two Medicine River will be constructed. About 4.5 miles of road is on public land and 1.5 miles is across both public and private land. All roads will have a minimum fourteen foot running surface designed for drainage and safe operation. The well pad will require clearing four acres. All construction work will be approved by the agencies prior to any activity. Mitigation measures will be strictly applied to minimize surface disturbance and to accommodate other Forest uses. Reclamation will occur as soon as practical upon completion of drilling and will follow the reclamation monitoring plan outlined in Appendix Q (page Q-10) of the FEIS.

The Forest Supervisor's decision to approve the Surface Use and Operating Plan includes adopting the mitigation measures and monitoring provisions described in Chapter V of the FEIS, the monitoring plans outlined in Appendix Q of the FEIS, the Hydrogen Sulfide Contingency Plan presented in Appendix B (pages B-47 through B-73) of the FEIS, and the Conditions of Approval included in Appendix A of this ROD. Thus, my decision is consistent with the Forest Supervisor's decision.

The selected alternative complies with all applicable State and Federal laws and regulations. If it is determined through monitoring or other means that laws, regulations or resource protection objectives are not being met, the project will be modified to bring it into compliance.

IV. RATIONALE FOR THE DECISION

A. Resolution of Issues

Eleven factors, addressed in detail in the FEIS and independently reviewed by the BLM, provide the basis for my decision to approve, in its entirety, the Fina APD, including my concurrence with the Forest Supervisor's decision to implement Alternative A2 as the preferred course of action. These factors include threatened and endangered species, opportunity to explore the lease, Glacier National Park, Blackfeet cultural values, wildlife other than threatened and endangered species, dispersed and developed recreation, local economy, social values, overall costs to implement the project, effects on fisheries and water quality, and effects on other proposed projects. These factors were compared for the various Fina alternatives using an analytical method entitled *Choosing by Advantages* or CBA. The CBA method enables a decision maker to weigh the advantages of each alternative by comparing such factors across a range of alternatives. The alternative with the most advantages may then be identified as the preferred alternative.

Alternative A2 provides more advantages than any of the other roaded alternatives that were analyzed in detail in the FEIS. Using the CBA process, Helicopter Alternative F9 provides slightly more advantages than Alternative A2. The slightly greater advantage of Alternative F9 over Alternative A2 does not justify the significantly higher costs of exploration drilling by helicopter. This issue is addressed in detail in Appendix N of the FEIS. Alternative E, the no action alternative, is environmentally preferred, but was not selected because based on the FEIS, Alternative A2 with application of the Forest Plan Standards and Guidelines and additional mitigation measures can be implemented in an environmentally sound manner.

My rationale for concurring in the selection of Alternative A2 is consistent with the findings documented in the FEIS and is also consistent with the rationale presented in the Forest Supervisor's February 19, 1991, ROD. My rationale is presented below in a manner corresponding to the issues raised during scoping and throughout the NEPA process.

1. WELL PRODUCTION ISSUES

As discussed in the Purpose and Need for Action section of Chapter I, the FEIS discloses the effects of proposed exploratory drilling by Fina, as well as the effects of a range of reasonably foreseeable production and development activities. However, my decision is restricted to the drilling of one exploratory well. Should testing determine that the well is capable of production, additional analysis will be conducted to determine whether, and under what conditions, environmentally sound production activities could occur.

As one element of the decisionmaking process, the Forest Supervisor is allowing Fina to conduct this project in recognition of a long-term agency strategy to "increase access for minerals development within a multiple-use context, where it can be accomplished in an environmentally acceptable manner" (Recommended 1990 RPA Program). BLM policy also includes making public minerals available for orderly and efficient development under the principles of multiple use management, in a manner that satisfies national and local needs and provides for economically and environmentally sound exploration, extraction, and reclamation practices.

Based upon the information presented in the APD, the drill site is located directly over the target structure. All suitable drill site locations within one-half mile of the target structure meet the standards and guidelines in the Forest Plan. In conducting its independent review of the FEIS, an interdisciplinary team of BLM resource specialists carefully re-examined the proposed wellsite and determined that a second location is available on a grassy knoll approximately 1300 feet northwest of the proposed location. Development at this site would result in less soil disturbance and smaller impacts to vegetation and visual quality. Fina was contacted by letter regarding this alternative location, and indicated that it strongly prefers its proposed location based on geologic considerations.

BLM policy regarding lease rights does not permit relocation of proposed operations by more than 200 meters without substantial justification. Such justification does not exist in this case. Drilling at the proposed wellsite can be conducted in an environmentally sound manner. The overall impacts of the project on surface resources would not be substantially different if the wellsite location was moved 1300 feet. However, moving the wellsite would result in substantial increases in drilling time and costs, and may decrease the chances for discovery. I concur with the Forest Supervisor in finding no overriding reason to deny exploratory drilling at the site Fina has selected.

2. WATER QUALITY ISSUES

All action alternatives have the potential to affect both ground and surface water quality. However, the likelihood of impacts to ground water quality is remote (FEIS, Chapter IV-12). All pits designed to hold drilling fluids will be lined with impermeable membranes to prevent infiltration of fluids into groundwater. Deeper aquifers are protected from contamination by freshwater drilling muds and casing. Casing competency will be assured by the requirement of cement bond logs, pressure tests, and witnessing of operations by project inspectors. Even in the event lost circulation zones are encountered, no hazardous substances would enter freshwater zones since additives to the drilling mud will not contain hazardous chemicals (FEIS, Chapter V-4).

Helicopter mobilization would have the least impact on surface water quality since road construction would not occur. However, should the well be capable of production, roaded access would be required. I agree with the Forest Supervisor's selection of roaded access to the wellsite, knowing that road construction could affect water quality. As estimated (FEIS, Chapter II), Alternative A2 has the lowest potential for increased sediment yield from road construction. Estimates place the increase in sediment yield to the Two-Medicine River from road construction at less than 2 percent over a five-year period (FEIS, Chapter IV-135).

3. AIR QUALITY ISSUES

All action alternatives will result in gaseous and dust emissions from road construction, traffic, and drilling. Through application of mitigation measures, dust emissions will be held to a minimum (FEIS, Chapter V-5). Estimated emissions are below any Federal or State significance levels. Modeling indicates that deterioration of visibility within Glacier National Park, using a worst case scenario, will be below levels deemed to be significant (FEIS, Chapter IV-109). That is, there are no anticipated impacts to Class 1 airsheds. Wind direction in the vicinity of the Fina wellsite is generally from the west-southwest (FEIS, Chapter III-18). Airborne pollutants should not be carried into Glacier National Park.

The effects of accidental releases of hydrogen sulfide gas during the drilling operation has been a concern of area residents. Modeling indicates that even under the most extreme conditions, significant concentrations of gas would not be anticipated near East Glacier Park or surrounding residences (FEIS, Chapter IV-110). In the event of an accidental release of gas, the contingency plan developed by Fina will guide emergency procedures. Local and State emergency services personnel have copies of the contingency plan.

I agree with the Forest Supervisor's determination that emissions from project construction activities will not adversely affect area resources, and that measures to reduce fugitive dust will be effective. In the remote event of a hydrogen sulfide release, contingency measures will assure the health and safety of area residents.

4. ACCESS MANAGEMENT ISSUES

The selection of roaded access will require the construction of about 5.7 miles of road (including a temporary bridge over the Two-Medicine River) and reconstruction of 0.3 miles of road between U.S. Highway 2 and the well site. On National Forest System land, the Forest Supervisor is authorizing construction of about 4.5 miles of road and construction of a temporary bridge across the Two-Medicine River. Should the exploratory well not be capable of production, about 4.5 miles of road will be reclaimed and the bridge across the Two-Medicine River will be removed (FEIS, Chapter V-8 and Appendix A). About 1.5 miles of road between U.S. Highway 2 and the Forest boundary, utilizing an existing exemption strip and private land, will remain to provide access to private inholdings. All rights of access across private land will be the responsibility of Fina to obtain.

In conducting its independent review of the FEIS, the BLM carefully re-examined the possibility of using existing roads and trails for access to the proposed wellsite. These were addressed in the FEIS and eliminated from detailed study (Chapter II-33). Existing roads and trails could be used to shorten the route of access as well as to reduce the need for new road construction. However, all existing alternatives to the proposed new road were determined to be less desirable due to wildlife impacts, soil stability, visual screening concerns, and engineering considerations.

In order to reduce disturbance to other Forest uses and users, road use restrictions will be strictly enforced (FEIS, Chapter V-5 and Appendix J-14). Motorized access on the proposed road will be limited to personnel directly connected with the drilling activity (except for the 1.5 miles of road between U.S. Highway 2 and the Forest boundary, which will provide access to private inholdings). A guardhouse and entry gate adjacent to U.S. Highway 2 will be installed and staffed during periods of operation to limit entry to the site, and all traffic will be confined to the roadway and drill pad area (Appendix A). Workers will not be allowed to have dogs with them or carry firearms during their normal tours of duty (FEIS, Chapter V-9).

Based on the management direction for this area, I agree with the Forest Supervisor's determination that roaded access to the well site is appropriate. Restricting vehicle use to project-related activities and authorized personnel, and reclamation of the road and bridge upon project termination will help to minimize increased human intrusion into the area. Confining project-related activities to the road corridor and drill pad will also minimize impacts to other Forest users and resources.

5. GLACIER NATIONAL PARK AND WILDERNESS ISSUES

As disclosed in the FEIS (Chapter IV, pp. 117-119), the Fina project will have minimal effect on Glacier National Park. While there will be some noise attributed to the project that can be heard in the Park, most noise levels will be at background levels and significantly lower than existing noise associated with the Burlington Northern Railroad and U.S. Highway 2. Project roads and the drill rig will be seen from within the Park along the Autumn Creek Trail. Visibility will be greater at night due to lights on the rig. Any visual effects will be subordinate to the highway and railroad (FEIS, Chapter IV-118).

Visitors to adjacent wilderness areas may hear noise at background levels at higher elevations. The nearest wilderness area is over 7 miles away. Vegetation screening will attenuate noise levels to background over short distances. Views of the project area from wilderness areas are unlikely because of the distance, terrain, and vegetation (FEIS, Chapter IV-118).

As disclosed in the FEIS, the project will have little effect on wildlife migration between the Park and Forest lands. Migration routes are to the west of the proposed access road (FEIS, Chapter IV-118).

In making this decision, I agree with the Forest Supervisor's determination that Alternative A2 will have minimal impact on Park resources. Noise and visual impacts of the project are expected to be a minor extension of disturbance presently existing in the area. Sights and sounds from heavy traffic crossing the Continental Divide on U.S. Highway 2 and from approximately 30 trains per day that traverse the area already greatly disturb the area (FEIS, Chapter III-24). Most drilling noise will be attenuated before reaching the Park some 2.75 miles away. Lights will be visible but will be an extension of lights from the railroad, highway, and residential lighting. Documented wildlife migration routes will not be affected by the project.

6. ROADLESS CHARACTER ISSUES

All alternatives evaluated for the Fina project lie outside Roadless Area 1-485, as would any foreseeable production or development activities (FEIS, Map 3.6).

In making his decision to proceed with this project, the Forest Supervisor reviewed past wilderness legislation. The area encompassing the Fina project has never been included in any bill before Congress that would designate the area as wilderness under the National Wilderness Preservation Act. Evidence of past use including seismic roads, drilling of an exploratory oil/gas well, ranching, and off-road vehicle use are still visible within the North End Geographic Unit. Bills have been introduced to Congress calling for the Forest Service and Blackfeet Tribe to develop a joint management plan for the area. However, none of these bills has been enacted into law (FEIS, Chapter VII-38). Some members of the public have expressed great concern that the area be classified as wilderness, as evidenced by the petition to Congress from the Montana Wildlands Coalition. Concerns have also been expressed by the Blackfeet that wilderness designation will diminish rights reserved by them in the Agreement of 1896 (FEIS, Appendix J-7 and J-13).

The FEIS discloses that lands within Roadless Area 1-485 would not be affected by the exploration proposal or by reasonably foreseeable actions resulting from exploration activity. I agree with the Forest Supervisor's determination that the project proposed by Fina is consistent with present management direction for the area, and that the project will not affect designated roadless areas.

7. WILDLIFE ISSUES

The FEIS discloses the effects of the proposed project on many different wildlife species (FEIS, Chapter IV-37). However, in making this decision, the effects on three major species were examined: grizzly bear, gray wolf, and elk. The FEIS also addresses conformance of the project with the Rocky Mountain Front Wildlife Guidelines (FEIS, Chapter III-32).

The FEIS compares the effects of roaded, helicopter, and no action alternatives. When one compares the amount of acres that would be within the zones-of-influence of the roaded and helicopter alternatives, the helicopter alternative contains the greatest amount of acres. However, once a timing window of five months is applied the amount of acres affected is basically the same, and the effects on wildlife are very similar with either access method (FEIS, Chapter IV, pp. 121-134).

When comparing the amount of acres of seasonal ranges for grizzly bear and elk affected by roaded alternatives there is very little difference between them. The acres affected range from 3586 for alternative A2 to 5286 for alternative D1. However, when a five month window of operation is applied, these figures are reduced to 200 acres for A2, and to 1200 acres for C2. With a July 1-Nov 30 operating window, all alternatives will conform to the Rocky Mountain Front Wildlife Guidelines in their entirety with the exception of denning habitat guideline #1D, which would affect less than 1 percent of denning habitat.

As disclosed in the FEIS, the Biological Opinion from the U.S. Fish and Wildlife Service (FWS) states that the project can proceed with the specified mitigation measures in place without jeopardizing either the grizzly bear or gray wolf. The Biological Opinion also directs the Forest Service to conduct a monitoring program to test the effectiveness of the Rocky Mountain Front Wildlife Guidelines.

In conducting its independent review of the FEIS, the BLM carefully re-evaluated compliance with the Section 7 consultation requirements of the Endangered Species Act (ESA). In appeals from the Forest Supervisor's February 19, 1991 decision, questions were raised concerning limitations to use of the Cumulative Effects Model (CEM) prior to completing validity and sensitivity testing. The BLM entered into a contract with Keith Aune of the Montana Department of Fish, Wildlife, and Parks to undertake model testing and validation by comparing his bear data, collected over eight years, to assigned habitat and mortality risk coefficients and other model outputs. Aune's findings were released in December of 1991. Aune could not confirm positive trends in the relationships between bear use and the predictions of the model or input coefficients. Therefore, he recommended that the CEM be placed into a research and development program where it could go through the proper growth and experimentation phases before implementation into management programs.

Because of these findings, BLM initiated further consultation with the FWS on May 11, 1992, to determine whether Aune's study of the model or any other new information would affect the FWS July 25, 1989, no jeopardy opinion for the Fina project.

On June 2, 1992, the FWS responded by letter with the following findings:

"We have reviewed our biological opinion, particularly in light of how the Cumulative Effects Model for grizzly bears was applied and used in the jeopardy/no jeopardy decision by the Service. The Service's no jeopardy opinion was largely based on design of the project, the required mitigation/coordination measures, the six factors designed to minimize grizzly bear mortality risk, and the status of the grizzly bear population in the Badger-Two Medicine Bear Management Unit (refer to Biological Opinion). The project design and the required coordination measures were based on the results of grizzly bear research conducted in that area by Keith Aune of the Montana Department of Fish, Wildlife, and Parks and were in conformance with the Rocky Mountain Front (RMF) Wildlife Guidelines.

The CEM was a tool used in our analysis of impacts and the results helped confirm the utility of the RMF Wildlife Guidelines in minimizing/eliminating the impacts of the proposed project. The CEM results did not dictate the outcome of the jeopardy/no jeopardy call by the Service. Thus, we conclude that our biological opinion on the FINA project remains valid."

In addition, the FWS was asked on October 28, 1992, for an updated threatened and endangered species list for the area. No new species have been listed and no new information has been obtained which would require additional analysis for the project.

The FWS no jeopardy opinion is dependent on control of access and enforcement of laws to reduce mortality risk to grizzlies (FEIS, Appendix G-15). As discussed elsewhere in this ROD, the BLM has carefully re-examined issues surrounding the Forest Service's authority to limit motorized use of the project access road to project-related personnel, and to not open such road to members of the Blackfeet Tribe and the general public, and has determined that the Forest Service has such authority. In addition, the BLM has reviewed questions regarding the effectiveness of the interagency Law Enforcement Plan in the absence of the Blackfeet Tribe's participation. This Plan, documented as an interagency agreement, provides for education, detection, and investigation of violations of laws and regulations in the Fina project area. It involves Federal and State law enforcement agencies with jurisdictional wildlife law enforcement responsibilities on National Forest lands or adjacent lands.

Based on discussions with the FWS and Forest Service, I conclude that the law enforcement agreement can be fully implemented and all of its objectives can be met by the participating agencies, which include the Forest Service, National Park Service, BLM, Bureau of Indian Affairs, FWS, and the Montana Department of Fish, Wildlife and Parks. While the participation of the Blackfeet Tribe would obviously result in more effective law enforcement within the boundaries of the Blackfeet Reservation, the interagency agreement as presently established is adequate to prevent illegal grizzly bear mortality associated with the Fina project.

Based on the Biological Assessment, the Biological Opinion, the application of the interagency Rocky Mountain Front Wildlife Guidelines, and the minimal acres of seasonal wildlife ranges affected, I concur in the Forest Supervisor's selection of Alternative A2 as the preferred alternative for the Fina project.

8. FISHERIES ISSUES

Sediment delivery to the South Fork-Two Medicine River and its tributaries is expected to increase by less than 2 percent over a five year period from construction related activities (FEIS, Chapter IV-135). Fish populations are not expected to be affected by construction activities in any action alternative because measurable changes to habitat parameters should not occur (FEIS, Chapter IV-57). The major impact to fisheries would arise if there is a direct discharge of fuels into live waters (FEIS, Chapter IV-135). Fuel spills, if they occur, would most likely be from fuel trucks (FEIS, Chapter IV-59).

In reaching his decision to allow drilling, the Forest Supervisor considered the potential impacts on fisheries and determined that a two percent increase in sediment delivery to South Fork-Two Medicine River will not result in deterioration of habitat and is an acceptable short-term increase. I agree with this determination. The potential for fuel spills is minimal as fuel storage areas will be bermed and lined to prevent accidental surface or subsurface discharge. Fishing pressure will not increase because access will be strictly controlled and limited to personnel directly connected with the drilling operation. That portion of the project road across National Forest System land will be reclaimed at the end of the project and will not result in a long-term increase in access.

9. VEGETATION ISSUES

Of all the alternatives analyzed in the FEIS, Alternative A2 disturbs the least area of any roaded alternative, with vegetation to be cleared from about 25 acres. The A2 route does not traverse wetlands as do Alternatives B2 and C2, and does not impact riparian areas as does Alternative D1. Alternative A2 also requires the fewest miles of new road construction of any roaded alternative, thus reducing the potential for loss of vegetation (FEIS, Chapter IV-138).

All action alternatives could result in damage to vegetation from petroleum product spills and chemical spills. The greatest risk posed by spills of fuels would be associated with Alternative D1 and the use of a road adjacent to Deep Creek. Even helicopter alternatives pose a risk of spills should a load be lost or a helicopter crashed. None of the action alternatives are without risks of damage to vegetation from petroleum and chemical products should a spill occur. I agree with the Forest Supervisor, however, in finding that Alternative A2 provides the best protection to vegetation resources of all the roaded alternatives because it avoids wetlands and disturbs the fewest acres of vegetation (FEIS, Chapter IV-138).

All surface disturbing activities have the potential to introduce noxious weeds. Mitigation measures have been developed to minimize the introduction of weeds and a monitoring plan has been developed to detect weeds should they be introduced. Control of weeds will be done in accordance with the Forest Noxious Weed Plan. All construction equipment will be cleaned before moving on-site to prevent the accidental introduction of weed seed. All seeding done to accomplish intermediate and final site restoration will be accomplished with certified weed-free seed. All action alternatives pose the problem of introduction of weeds, with no one alternative having a significant advantage over the others.

There are no known occurrences of rare or endangered plants, as defined by the Endangered Species Act, in the project area. A survey conducted in June 1990 did not find any plants of special concern within the area. The proposed project will result in a "no effect" situation for any sensitive plant species (FEIS, Appendix F).

In reaching his decision, the Forest Supervisor considered the project's impact on vegetation resources, and determined that the area can be successfully reclaimed to a near natural condition. I agree that there should not be any long-term impacts on vegetation. Livestock grazing, as discussed in the FEIS, will be minimally affected by the project.

10. VISUAL QUALITY AND RECREATION ISSUES

Alternative A2 would pass through areas with visual quality objectives of Retention, Partial Retention, and Modification. The intersection of road alternative A2 with U.S. Highway 2 would be at an existing road intersection and would cause no additional visual disturbance. The access road for Alternative A2 would be seen from south of the South Fork Two Medicine River and from critical viewpoints B and F (FEIS, Chapter III-58). I agree with the Forest Supervisor's determination that the visual quality objective from these viewpoints can be met with careful road layout and minimal clearing. Mitigation measures such as minimum road widths and planting shrubs and trees in disturbed areas should reduce any apparent visual contrast.

I also agree with the Forest Supervisor's determination that, while the drilling rig would be seen from Glacier Park and U.S. Highway 2, the distance involved should render any views of the rig subordinate to the landscape. The drill rig would only be seen for the duration of drilling activity and would not be a permanent change for the existing visual condition.

One comment received on the FEIS concerned the “outdoor education laboratory” characteristics of the North End Geographic Unit. Although the FEIS did not address the potential the area holds as an outdoor education laboratory directly, it does address the issue indirectly in several sections. The direct effects to vegetation and plant communities from the Fina project are discussed in Chapter IV, pp. 137-141. This section shows that there will be effects to the area, but that the project will not render the entire 130,000 acre area unsuitable for outdoor education. In fact, with the selection of Alternative A2, there is considerable area in the Two Medicine drainage that will be free of disturbance. This area covers a variety of habitat types and contains important habitat for wildlife that could be used for educational purposes.

The Wilderness Treatment Center, commenting on the FEIS, requested that the decision consider their use of the area. While the FEIS addresses the effect the project will have on outfitter-guide operations and the use of the trail system, the Wilderness Treatment Center’s use of the area was specifically mentioned (Chapter IV, pp. 142-144, and 160). Based on the operational period of the Fina project there would be little if any effect on the Wilderness Treatment Center. The window of operation for Fina is July 1 to November 30 and the operational period of the Wilderness Treatment Center’s permit is from December to April. The Wilderness Treatment Center utilizes the Two Medicine, Woods Creek, Lee Creek, Goat Mountain, and Hyde Creek areas for their exercises. I agree with the Forest Supervisor’s conclusion that the Fina project would only affect the Wilderness Treatment Center’s operation in areas where use patterns come in contact with the access road or drill pad. Based on the selected alternative (A2), Wilderness Treatment Center personnel would only encounter the road when leaving and arriving at their base camp at Rising Wolf Ranch.

11. CULTURAL ISSUES

I agree with the Forest Supervisor’s finding that alternative A2 will result in no effect to identified sites or properties that are eligible for listing on the National Register of Historic Places. The identification effort for historic properties included a literature review, field inventory, and interviews with Blackfeet Traditionalists. The interviews did not result in the identification of any properties having significance as traditional cultural properties as defined by the National Historic Preservation Act. These efforts, taken as a whole, resulted in a determination that no properties included on or eligible for inclusion to the National Register of Historic Places would be affected by the proposed action. The Montana State Historic Preservation Office commented on the identification effort and further stated that they had no information which disputed this finding. Compliance with the implementing regulations of Section 106 of the National Historic Preservation Act has, therefore, been completed.

Like the Forest Supervisor, I also recognize that the area is used by some members of the Blackfeet Tribe for religious purposes and for other uses, including the exercise of rights reserved in the Agreement of 1896. Past use includes motorized access for hunting, wood cutting and recreation. Other uses of the area include motorized winter recreation by snowmobiles. Not until 1988, with implementation of the Forest Travel Plan, were vehicle restrictions imposed in the area. As stated in the FEIS (Chapter IV-150), Blackfeet traditionalists view all action alternatives as negatively impacting their culture and religion. However, they have been reluctant to discuss any specific potential effects caused by the project to the practice and belief in their traditional religion (FEIS, Chapter IV-152). I have considered what actions could be undertaken to reduce the impact of the project on traditional practitioners. Mitigation measures that will minimize visual, auditory, and physical changes have been developed and are included in Appendix A of this ROD.

In case traditional practitioners choose to use the area around the wellsite regardless of the disturbance, notice will be made in local newspapers of planned drilling activity. This will enable religious practitioners to plan their activities so they can be conducted at locations and during time periods when the effects of the project are not evident.

Visual intrusions which might affect traditional religious practices will be minimized by employing a professional landscape architect to review all project location plans and to develop mitigation measures.

In summary, I concur with the Forest Supervisor’s decision to allow roaded access to the wellsite, recognizing that there may be some unavoidable impacts to traditional religious practitioners. I agree with the Forest Supervisor’s determination that this decision does not change a person’s freedom of religious belief. Mitigation measures that

limit access and reduce noise levels will help to reduce project impacts on those who choose to practice traditional religion in the general area of the well site.

12. BLACKFEET RESERVED RIGHTS ISSUES

As part of BLM's independent review of the FEIS, the Department of the Interior Solicitor's Office was asked to clarify its earlier opinions on road access restrictions. The Field Solicitor affirmed that the United States has the authority to restrict use, including motorized vehicle use by Blackfeet Tribal members, on the proposed access road. As previously noted, this road is being constructed as a temporary, project-specific road. Blackfeet Tribal members' current access to the area will not be restricted, but neither tribal members nor anyone else other than project personnel will be allowed motorized access to the project road on National Forest System land. The road use restriction is justified as a necessary conservation measure for an endangered species. The July 25, 1989 "no jeopardy" opinion of the FWS is dependent on application of such a restriction to members of the Blackfeet Tribe and the general public, as evidenced by the reference to Forest Service legal authority "...to close access roads and enforce such closures on the Blackfeet Indian Ceded Strip..." (FEIS, Appendix G-15).

Additionally, the Field Solicitor has advised BLM that the 1985 Glacier - Two Medicine Alliance decision, 88 IBLA 133, at 148-150, was remanded because the road closure question was based upon the absence of a decision on the issue by BLM. Concerning discrepancies between his memorandums of July 14, 1986 and March 24, 1987, the Field Solicitor has advised that the earlier memorandum, as it applies to binding decisions, is in error. While some readers of Glacier - Two Medicine may conclude that a judicial determination is necessary, there is no justification by IBLA for such an interpretation, nor is there any precedent for such a conclusion. The BLM has met the requirements of the IBLA remand by making a decision. This decision is binding unless reversed.

In summary, I agree with the Forest Supervisor's determination that implementation of the proposed project will have no effect on rights reserved by the Blackfeet Indians in the Agreement of 1896. The current means by which tribal members exercise the Tribe's right to hunt and fish, harvest timber, and gain access to the area will not be infringed upon by the drilling of the well. The same access that presently exists will exist during the drilling project. The Forest Service has the authority to enforce road restrictions on National Forest System lands and will assure that the project road, once constructed, will not be open to motorized travel by anyone other than persons directly connected to the project. Members of the Blackfeet Tribe and members of the public will be required to observe restrictions on newly constructed Forest Service system roads as specified in the Forest Travel Plan (FEIS, Chapter II-51).

13. SOCIAL AND ECONOMIC ISSUES

All action alternatives require the same number of workers. Where employees find temporary housing determines the impacts to individual communities. Approximately 20 non-local workers are required in addition to the various service company crews. Ten local workers in addition to about 40 short-term local employees will be needed during the life of the project (FEIS, Chapter II-50).

Socially, the local communities may experience changes as new workers move into the area. The newcomers may not share the same values as local residents, which could lead to conflict. However, due to the imposition of windows of operation, many of the nonlocal workers may choose to leave the area during the nondrilling period. Since only a few nonlocal workers will be in the area, they may have no more impact on local communities than tourists. That is, with so many tourists passing through the area, the community is accustomed to people with backgrounds, values, and beliefs different than their own.

In summary, I agree with the Forest Supervisor's view that social and economic factors are not a major consideration in the selection of Alternative A2. Neither the Forest Supervisor nor I have control over where goods and services are purchased and where workers choose to live. As stated by Blaine, Pondera and Glacier county governments (FEIS, Appendix P), the project will help alleviate depressed economic conditions and provide economic stability in northern Montana. Alternative A2 is among the alternatives that provide the greatest opportunity for income derived from oil and gas activities. Local communities and counties will benefit from direct expenditures by Fina and through increased taxes on equipment associated with exploration activities.

14. HEALTH AND SAFETY ISSUES

All alternatives to the proposed action except the no action alternative pose some risk to health and safety. Risks range from traffic accidents involving both humans and wildlife, to fuel spills and releases of hydrogen sulfide, among others (FEIS, Chapter II-52 and Chapter IV, pp. 162-163). I agree with the Forest Supervisor's determination that the risks, in terms of human lives and effects on wildlife, are not great enough to preclude the project. The Hydrogen Sulfide Contingency Plan provides a means of protecting the public in the event of an accidental release of gas. All roadways will be designed for safety, and because the general public will be excluded from using motorized vehicles on the project road, there will be no increased risk of accidents with heavy equipment. Traffic speeds on the project road will be controlled, thus reducing the chances of vehicle-wildlife accidents.

As stated in the Biological Opinion, incidental take of grizzly bears is not authorized. Any mortality directly caused by the project will be subject to investigation and may result in changes to the operation to prevent future takings.

All projects of this nature have some level of inherent risk. Mitigation measures outlined in the FEIS are designed to reduce or eliminate hazards associated with the drilling operation. I agree with the Forest Supervisor's determination that the health and safety of the general public and wildlife in the project area is protected by the Drilling Plan, Hydrogen Sulfide Contingency Plan, and engineering standards that Fina will be required to follow.

15. LEASE ISSUES

Several commentors contended that the Fina lease issued in 1981 "was not issued legally and is therefore void abinitio." The comments claim that the lease is "invalid under the holding in Conner v. Burford" and that "...[u]nder such circumstances, the Forest Service must recognize that these particular leases are invalid, yet the Draft EIS is absolutely silent on this critical issue."

In order to understand the issue of lease validity it is necessary to understand some of the history of oil and gas leasing and litigation associated with leasing in the Northern Region. In February 1981, Forest-wide Environmental Assessments for oil and gas leasing were prepared by individual Forests throughout Region 1 in response to the Energy Security Act of 1980. Decisions to lease particular lands were made for each National Forest in Region 1 based on the individual Forest-wide Environmental Assessments. The decisions to lease lands on the Flathead and Gallatin National Forests were administratively appealed. These decisions were upheld on administrative review. Subsequently, the lease decisions on the Flathead and Gallatin National Forests were challenged in Federal District Court. The leasing decision was based upon an environmental analysis documented in the Environmental Assessment for Oil and Gas Leasing on Nonwilderness Lands (Forest Service, 1981). The decision to lease lands on the Lewis and Clark National Forest and, in particular, the Fina lease, has not been administratively appealed or challenged in court.

On March 12, 1985 the Federal District Court of Montana ruled on the challenge to the lease decisions on the Flathead and Gallatin National Forests. The Federal District Court of Montana held in Conner v. Burford (605 F. Suppl 107 (D. MONT 1985)) that the federal agencies violated NEPA and ESA in failing to consider all stages of oil and gas activity at the lease stage and specifically stated regarding the status of the leases that "the agency actions allowing the issuance of the oil and gas leases on the Flathead and Gallatin National Forests are HEREBY SET ASIDE."

The government appealed the Federal District Court decision to the Ninth Circuit Court of Appeals. On January 13, 1988, the Ninth Circuit Court of Appeals upheld, in part, the decision of the District Court, by finding that the federal agencies had violated NEPA and ESA by failing to consider the effects of post-leasing oil and gas activities at the time of issuance of non-NSO leases. In the decision, the Ninth Circuit took the opportunity to clarify the status of the leases, as previously requested by the federal agencies. The Ninth Circuit stated:

"As a factual matter, it is not clear that the district court actually intended to set aside the leases. Nor do appellees urge such an interpretation of the order. They specifically note that "[t]he contracts themselves were not invalidated and further actions construing rights under them are not precluded by the district

court's order." Brief for Plaintiff Appellees at 36. Whether or not this is a correct interpretation of the district court's intent, we now clarify the order to assure that it has that effect. As the courts have done in similar situations, we hereby enjoin the federal defendants from permitting any surface-disturbing activity to occur on any of the leases until they have fully complied with NEPA and ESA..."

"Once the government complies with NEPA and the ESA, it is entirely possible that it will authorize surface-disturbing activities on many of the leased lands. Thus, although development probably will be delayed, it is conceivable that it will occur on some of the leases already sold. The legally protected interests of the lessees are barely affected until the government decides that no development and production of the oil and gas reserves will be allowed, and even then they may have claims for damages against the government" (848 F. 2d 1441, (9th Cir. 1988)).

Since the time of the Ninth Circuit Court decision, the leases on the Flathead and Gallatin National Forests have been suspended by the BLM pending compliance with NEPA and the ESA prior to any surface-disturbing activities. However, it is clear from the Ninth Circuit decision that the leases on the Flathead and Gallatin National Forests were neither held invalid nor set aside.

Returning to the issue of the validity of the Fina lease issued in 1981, as stated above, the lease has not been challenged by administrative appeal or in Federal District Court. The validity of Fina's lease was raised as an issue during the scoping process for the Chevron-Fina EIS (see Appendix D) and expressed during the comment period on the Chevron/Fina Draft EIS.

The concern was expressed that the leases were "invalid", considering the holding of Conner v. Burford, on the basis that the environmental assessment that supported the decision to issue the lease in 1981 was similar to the environmental assessments prepared on the Flathead and Gallatin National Forests and that, therefore, the environmental assessment did not adequately fulfill the requirements for a comprehensive analysis as required by NEPA and the Endangered Species Act.

I agree with the Forest Supervisor's response that no court has held the Fina lease invalid. Until such action occurs or there is some other administrative action by the Department of the Interior or BLM, which issued the lease, the Forest Service must recognize the rights of the leaseholder. Furthermore, even if subsequent litigation on Fina's lease resulted in a holding similar to the holding in Conner v. Burford, that holding would not invalidate the leases but would rather require full compliance with NEPA and ESA prior to any surface-disturbing activities. This has been accomplished with the comprehensive analysis in the Chevron-Fina FEIS, as tiered to the Lewis and Clark National Forest Land and Resource Management Plan and FEIS.

The FEIS analyzed the effects of numerous alternatives, including alternatives which would require changes to the existing lease terms and conditions of approval, and analyzed the effects of the no action alternative. Like the Forest Supervisor, my consideration of the no action alternative included not only consideration of just not approving the current Surface Use Plan, but as an aspect of no action, I have considered whether it would be appropriate to recommend a change in lease terms which would require 100 percent no surface occupancy, or whether to recommend lease cancellation. By analyzing the effects of the no action alternative in relation to the effects of action alternatives, including the effects of exploration as well as possible future production and development, I have been able to consider whether I should recommend, in addition to denying the current proposal, that lease terms be changed or the lease be cancelled. I have no authority to cancel or change lease terms, but I can recommend that these actions be considered based on this environmental review. Under Alternative E (APD Not Approved) Fina's APD would be denied. Should the Government determine to cancel the Fina lease, three courses of action could be taken to secure from the lessee any rights granted in the original lease transaction. These include buying back the leases, condemning the leases, and enacting legislation.

In a buy back situation, the government would offer the lessee (in this case Fina) a cash settlement for relinquishing the leases. Condemnation proceedings could be initiated by the Government to prevent enjoyment of lease rights. It would have to be shown that proposed operations were environmentally unacceptable before initiating condemnation proceedings. Lastly, legislation could be enacted by Congress to stop lease development.

Based on the environmental effects disclosed in this FEIS, I concur in the Forest Supervisor's determination not to select Alternative E (no action) which would deny the Fina Surface Use Plan. I also do not recommend lease

cancellation or a change in lease terms to require 100 percent no surface occupancy. In making my decision, I considered the dual objectives of conservation of our physical and biological surface resources and providing for opportunity to explore and develop oil and gas resources. I concluded that the selected alternative provides for meeting these dual objectives. After a careful review of the adverse impacts to surface resources disclosed in this FEIS, I found these impacts are within acceptable ranges and can meet the Management Goals, Objectives, and Standards in the Forest Plan. Implementation of Alternative E (no action), while conserving our physical and biological resources provides no opportunity for meeting BLM and Forest Service policy on mineral development and furthering the objective of multiple use management.

This FEIS is intended to fully meet the requirements stated in the Ninth Circuit Court's ruling in Conner v. Burford. I agree with the Forest Supervisor's determination that the requirements of Conner v. Burford are met by the Lewis and Clark National Forest Plan Environmental Impact Statement and the Lewis and Clark National Forest Plan which considered additional leasing alternatives which did not take into consideration the commitments embodied in the existing leases and analyzed the effects of development of an oil and gas field in the North End Geographic Unit; and the FEIS for Exploratory Oil and Gas Wells which considered additional alternatives to Fina's proposed action which did not take into consideration the commitments embodied in the existing leases and analyzed and disclosed the site specific effects of oil and gas field development and production.

An additional comment on the FEIS questioned Section 4 of the lease terms (FEIS, Appendix A-4). Specifically, the comment concerns the denial of lease occupancy based on impacts to wildlife. The purpose of Section 4 of the lease terms is not to deny an APD based on impacts to threatened and endangered species or other surface resource values. Section 4 specifically refers to the control of well density and the development timetables necessary to effectively produce and maximize the recovery from a reservoir.

The Secretary of the Interior reserves the right to specify rates of development and production in the public interest and to require lease holders to subscribe to a cooperative or unit plan if deemed necessary for proper development and operation of a producing area, field, or pool. A lease holder could also be required to drill and produce wells that are necessary to protect leased lands from drainage or pay compensatory royalty for drainage. However, there are provisions in the Standard Stipulation which is a part of Fina's lease terms which provides for disallowing surface use and occupancy which would be in violation of the Endangered Species Act. This does not apply in the present case because the U.S. Fish and Wildlife Service determined the project was not in violation of the Endangered Species Act.

Lands in the North End Geographic Unit were leased with stipulations to protect surface resources (FEIS, Appendix A-13). At that time, it was determined that resources could be protected while allowing oil and gas activities. The analysis presented in the FEIS verifies that exploration can occur without unacceptable impacts to surface resources.

Through the EIS process, it was determined that the proposed well may affect wildlife. A Biological Assessment was prepared and formal consultation with the U.S. Fish and Wildlife Service was conducted. In their Biological Opinion, the U.S. Fish and Wildlife Service determined that the proposed Fina project would not jeopardize the continued existence of threatened and endangered species provided the mitigation as stated in Chapter V of the FEIS is enacted. Had the Biological Opinion stated that the project would jeopardize the continued existence of threatened or endangered species, the APD could be denied under the authority of the Endangered Species Act.

Some individuals responding to the FEIS have questioned whether the Forest Service has or will have adequate funding for the project to assure that all monitoring and mitigation requirements will be met, and if not, whether the EIS discloses effects that can be expected if mitigation and monitoring requirements are not satisfied. The EIS fully discloses environmental effects that might result with mitigation measures applied and, conversely, without mitigation applied. The lack of effective monitoring and enforcement (presumably due to lack of funding) could result in a lower standard of quality control of the projects by the agencies and could tend to produce effects tending toward those described were mitigation not applied. It is unlikely that the full "unmitigated" scenario would result, however, since Fina would be bound by a drilling permit containing stipulations and mitigation measures that must be followed to avoid breach of permit conditions and to avoid loss of or attachment of the performance bond. It should also be understood that, in the final sense, funding for Forest Service and BLM activities is now and has been subject to Congressional appropriation. Use of funds by the agencies is always subject to constraints and conditions that may be imposed by Congress.

After reviewing the information and conclusions reached in the FEIS, I concur in the Forest Supervisor's determination that there is no justifiable reason to deny Fina the opportunity to explore their lease at the site selected. The Forest Supervisor's approval of the Surface Use Plan of Operations and my approval of the APD require that Fina accept and abide by the Conditions of Approval discussed in Appendix A of this ROD and in Chapter V of the FEIS.

B. CONSISTENCY WITH APPLICABLE POLICIES, PLANS, AND PROGRAMS

National Forest System land within the project area is currently managed according to direction in the Lewis and Clark Forest Plan. This project is consistent with the management direction prescribed in the Plan (FEIS, Chapter I). The FEIS tiers to the Forest Plan EIS and the Forest Plan.

As discussed elsewhere in this ROD, every effort has been made to comply with all applicable laws and regulations, both State and Federal, including the National Environmental Policy Act, the Endangered Species Act, the National Historic Preservation Act, the American Indian Religious Freedom Act, and others. Local governments have been consulted to assure consistency, to the extent possible, with local programs. Federal policies and programs affecting environmental protection and oil and gas resources have also been reviewed and incorporated.

V. ALTERNATIVES CONSIDERED

The Forest Service, in 1987, requested that the Hall Creek EA (Fina's original proposal) be returned to the Agencies by the IBLA. Because of this action, the decision to issue Fina an APD was vacated. Information in the Hall Creek EA was carried forward when the Chevron and Fina proposals were combined into a single analysis. The ID team reviewed all reasonable alternatives for the Fina proposal. Some of the Fina alternatives noted in the FEIS identify access routes similar to those identified in the Hall Creek EA. Additional alternatives were identified based on more recent issues and concerns.

In response to public comment and proposals by Fina, twelve preliminary alternatives were identified by the ID team. Five of the access routes identified in the initial alternatives were eliminated from detailed study because they were determined to be technically, administratively or economically unreasonable. In the identification of alternatives, consideration was given to the identified issues and concerns, the economic and technical limitations of the industry, and the standards and direction contained in the Lewis and Clark Forest Plan. Seven alternatives including no action were analyzed in detail in the Draft and Final EIS. In addition to considering the drilling and related road access requests submitted by Fina under their current lease, additional alternatives were analyzed which involved different management and mitigation mixes which in some cases would require changes to the existing lease terms and conditions of approval. The alternatives and their relationships to the existing leases are shown in Chapter 1 of the FEIS.

Alternative A2 - False Summit. This alternative was originally identified by Fina and considered in detail in the Hall Creek EA. Road access would be from U.S. Highway 2 in the NW1/4 of Section 15, Township 30 North, Range 13 West. Access would proceed through Sections 14, 15, and 23, then join an existing jeep trail in Section 22 and continue to the well site.

Alternative B2 - Sections 28 and 29. This alternative was considered in detail in the Hall Creek EA. It was identified by the ID team to avoid oil and gas activity near the Summit Campground-Marias Pass area. Road access to the Fina site would be from U.S. Highway 2 beginning at the present Forest Service trailhead in the NE1/4NW1/4 of Section 29, Township 30 North, Range 13 West and extending through Sections 28 and 29, Township 30 North, Range 13 West, joining an existing jeep trail, then continuing to the well site.

Alternative C2 - Pike Creek Road. This alternative was considered in detail in the Hall Creek EA. It was identified by the ID team because it utilized existing road and stayed primarily in timbered areas. This alternative received a non-jeopardy opinion from the U.S. Fish and Wildlife Service and was the preferred alternative in the Hall Creek EA. Road access to the Fina well site would enter from U.S. Highway 2 via the Pike Creek Road in Section 28, Township 30 North, Range 13 West and approach the location from the southwest.

Alternative D1 - Deep Creek. This alternative was not considered in the Hall Creek EA. It was identified by the ID team to avoid increased vehicle traffic on U.S. Highway 2 along the south side of Glacier National Park. No bridge construction would be required. Road access to the Fina well site would be from Deep Creek along the route of Forest Service Trail No. 180 and continue through Sections 19, 20, 21, and 23 to the well site.

Alternative F8 - Helicopter Mobilization from Lower South Fork of Two Medicine. Access to the well site would be via helicopter from the lower South Fork of the Two Medicine River and would approach the well site from the west. The helicopter staging area would require approximately one mile of road construction from U.S. Highway 2 to the approximate center of Section 29, Township 30 North, Range 13 West.

Alternative F9 - Helicopter Mobilization from Palookaville. Access to the well site would be via helicopter from the vicinity of Palookaville and would approach the well site from the east. This alternative was identified by the ID team to minimize adverse effects of helicopter activity on Glacier National Park. The helicopter staging area would be adjacent to Forest Service Road 9128 in the NE1/4 of Section 25, Township 30 North, Range 12 West.

Alternative E - No Action. Under this alternative, Fina's proposed drill site would be denied. Adoption of this alternative would result in a continuation of current management direction and practices. Previously issued leases would remain in effect. Future APDs may still be submitted by Fina and other leaseholders in the area. Denial of Fina's APD would not automatically result in denial of future applications for exploration and development on Lease M-53323. If impacts to surface resources from the proposed project would result in unacceptable resource damage, all surface disturbing activities on the lease could be prevented.

As defined in the FEIS (Chapter II-37), Alternative E, the no action alternative, is the environmentally preferred alternative. Under this alternative, the APD would not be approved for the site selected and surface disturbing activities that have the potential for adverse environmental effects disclosed in the FEIS would not occur. This would result in a continuation of current management direction and practices. Existing leases would remain in effect and future APDs could still be submitted by Fina or other leaseholders to drill on a different site or sites. Denial of the present APD would not automatically result in denial of future applications for exploration and development.

In going beyond denial of Fina's APD, the agencies considered cancellation of the lease or making a change in lease terms. While the agencies lack authority to cancel or change lease terms, they could recommend that such actions be considered based on this environmental review. Should the Government determine to cancel the Fina lease in order to permanently enjoin lease development, possible courses of action on the part of the Government include buying back the leases, condemning the leases, and passing legislation (FEIS, Chapter II pp. 13-14).

Either course of action would secure from the lessee any rights granted in the original lease transaction. In a buy-back situation, the Government would offer Fina a cash settlement for relinquishing the lease. Condemnation proceedings could be initiated by the Government to prevent enjoyment of lease rights. It would have to be shown that proposed operations were environmentally unacceptable before initiating condemnation proceedings. Lastly, legislation could be enacted by Congress to stop lease development.

VI. MITIGATION AND MONITORING

Chapter V of the FEIS lists the mitigation measures developed to lessen the effects on resources that would result from the proposed project. The measures identified are for all action alternatives and are discussed in Chapter IV as ways of mitigating the effects of each alternative on surface resources. Appendix A of this ROD draws upon the mitigating measures in Chapter V to develop specific Conditions of Approval for implementing Alternative A2. These Conditions of Approval must be accepted by Fina if the project is to proceed. They are made part of the APD approval and unless accepted, the Surface Use and Operating Plan will be denied. These mitigating measures represent what the agencies consider the best means to avoid or minimize environmental impacts that may arise from the project. The effectiveness of these measures is cited in the FEIS, Chapter IV by alternative for each resource.

Monitoring needs are discussed in Chapter V of the FEIS. Monitoring will assist in assuring compliance with the terms and conditions of APD approval and determine if the mitigation measures are effective in reducing project

induced impacts. Depending on the stage of the project, monitoring will vary in intensity by resource element being monitored. Appendix Q (FEIS) displays specific resource monitoring plans developed for this project and the timeframes during which monitoring will occur.

In order to accurately assess the impacts of drilling and related activities, pre-project monitoring will occur. During this phase of monitoring, water quality stations will be established, wildlife fitted with collars and other work that will give pre-project information. The second and most intensive phase of monitoring is coincident with project construction and drilling operations. A third phase of monitoring will occur if production is established and authorized. All monitoring programs will continue well after project reclamation and termination (FEIS, Appendix Q-1). In this way, resource elements are monitored prior to project initiation and after surface activities end to determine the physical and biological changes associated with the project.

In addition to specific resource monitoring, both the Forest Service and BLM will perform compliance monitoring (FEIS, Appendix Q-1). Inspectors will visit the site at various times and check to assure work is being accomplished according to the Conditions of Approval. BLM will witness certain drilling operations including setting of casing and cementing to assure requirements are met. Should on-site inspections discover noncompliance with any of the Conditions of Approval or if unanticipated environmental damage is occurring, the operation may be curtailed until problems are corrected. Depending on the severity of noncompliance, heavy monetary fines may be imposed.

All monitoring programs are designed to assure that impacts to resources are minimal and allow corrective actions to be taken immediately should unanticipated actions occur.

Monitoring is expensive both in terms of dollars and workforce needs. Approval of the Fina APD carries with it a responsibility to implement the monitoring plans and follow them until the project is completed.

APPENDIX A

CONDITIONS OF APPROVAL

The Application for Permit to Drill the Federal South Glacier No. 1-26 exploratory well on Federal lease M-53323 filed by Final Oil and Chemical Company is approved subject to acceptance by Fina of the Conditions of Approval enumerated below. These Conditions are in addition to the Lease Terms (Form 3110-2), Surface Disturbance Stipulations (Form 3109-3 and 3109-5), Oil and Gas Lease Stipulations (MSO Form 3109-1), Limited Surface Use Stipulation (Form MSO 3100-60), Activity Coordination Stipulation (Form MSO 3100-61), and Oil and Gas Lease Stipulations (Form MSO 3100-55).

A. REQUIRED SURFACE RESOURCE PROTECTION PLANS

1. An Erosion and Sediment Control Plan shall be prepared by the operator and approved by the Forest Service prior to any surface disturbing activities. Fina shall prepare this Plan which shall incorporate the guidelines listed below in this section.
2. A Floodplain and Wetland Protection Plan will be developed by the operator for all activity locations on floodplains or wetlands. This plan will clearly identify the affected floodplains or wetlands and will list the special protective measures for use in floodplains and wetlands, including those listed below. Risk of surface water contamination will be reduced by avoiding facility design and construction within 300 feet of channels or wetlands.
3. An Oil and Hazardous Substance Spill and Well Blowout Contingency Plan shall be developed by the operator that addresses measures that be taken to protect soil and water resources.
4. A Sanitary Protection Plan shall be prepared by the operator for protection against water pollution from garbage, human waste, and other wastes generated by the operation.

B. GUIDELINES FOR CONSTRUCTION, OPERATION, MAINTENANCE, AND DRILLING

1. Operations shall be conducted outside of wetlands, stream riparian areas, and floodplains except for designed, temporary crossings during bridge and culvert installation. Operations shall only be conducted seasonally in these areas when soil is dry or frozen and water levels are low.
2. Special stabilization measures shall be designed by the operator and approved by the Forest Service for any stream embankment disturbed by the construction of a water crossing or a roadway fill parallel to a stream course.
3. Installations which will remain in place through at least one runoff season, in any floodplains or near any channels shall be designed to accommodate 50-year flows.
4. Roads across stream crossings shall be designed and constructed to allow fish passage and to minimize alteration of natural physical stream characteristics on all perennial streams supporting a seasonal or resident fishery.

Design of all crossings shall be coordinated with the Montana Department of Fish, Wildlife and Parks.

Instream work shall not be conducted between February 15 through July 15 to keep sedimentation from negatively affecting egg hatching or emergence of cutthroat trout.

5. Lined diversion structures shall be used during culvert installation at live water crossings and riprap shall be used at culvert outlets to control sedimentation where culvert installation is necessary. Culvert installation will be completed and diversions eliminated as quickly as possible, normally within 1-2 days.
6. Temporary stream stability structures shall be installed where access roads cross stream channels and along steep (greater than 20 percent) cutbanks and fill slopes and upon the recommendation of the ID Team. Structures will include instream sediment traps installed manually and maintained regularly.
7. The size of disturbed areas shall be kept to the minimum necessary to accomplish the required work. The size of the disturbed area, as well as the potential for erosion, will be significantly reduced by limiting the disturbed areas to the gentlest slopes and by providing design for slope stabilization and prevention of mass failure.
8. All servicing and refueling of equipment shall be done in designated areas well away from wet areas and surface watercourses. Berms shall be used around these sites to contain spills.
9. Topsoil shall be stockpiled for use as fill and seedbed materials for later stabilization and reclamation of disturbed areas. The stockpile shall be protected from runoff or from other losses due to erosion by covering with organic matter, revegetation, or a tarp.
10. Erosion and sediment control measures, including slash filter sediment traps, shall be installed concurrently with construction activities. Slash filter sediment traps will be used with any construction activity within a minimum of 300 feet of all drainageways and wetlands. Slash filter strips (sediment traps) shall also be constructed below all fill slopes. Slash filter sediment traps will be designed and constructed to provide for other values, such as wildlife passage.
11. Operator construction or activity shall be halted when activity will cause rutting or churning of the road surface.
12. Erosion from excavation and sidecast material and from borrow pit, gravel sources and quarries shall be controlled, and the soils, channels, riparian areas and vegetation will be protected.
13. Soil, debris, and all waste materials shall not be placed in intermittent stream channels.
14. In order to control erosion, pioneer or temporary roads for construction equipment access shall be confined to the roadway construction limits and shall prevent undercutting of the designated final cut slope and deposition of material outside the limits. These roads will then be obliterated and reclaimed. Drainage will be provided with temporary culverts or bridges.
15. Drainage and erosion control work shall be completed concurrent with all construction activity or prior to the wet season.
16. All areas cleared of vegetation which are used seasonally and which are not otherwise protected shall be protected from runoff and mulched with wood chips, netting, or the equivalent to prevent erosion, by October 15. Where necessary, the road surface will be treated by gravel surfacing to control erosion.
17. Reserve pits shall be constructed on the upslope side of a pad and shall be excavated in stable, undisturbed ground, rather than diked or in fill, to ensure maximum stability and reduce possibilities of leakage. Pits shall be lined with an impermeable plastic or an appropriate sealant to protect ground water. Snow accumulations shall be managed to prevent runoff into the pit by ensuring that drainage is away from the pit. Reserve pits shall not be constructed in drainageways. The pit shall be constructed to prevent sloughing and to maintain the integrity of the liner. Dumping trash in the reserve pit is prohibited.
18. Access ramps to surface water supplies, should they be used, shall be designed to prevent stream bank damage and erosion.

19. Erosion hazard shall be decreased by returning any disturbed area to a slope which provides the greatest potential for successful stabilization. This applies to any disturbed area which will be subsequently obliterated and rehabilitated, throughout all phases of the operation.
20. Compacted ground surfaces shall be mechanically ripped to loosen the compacted zone prior to stabilization, obliteration, or seeding.
21. All disturbed areas resulting from construction shall be provided with necessary drainage or erosion control structures to prevent erosion, then seeded, fertilized, and mulched as necessary immediately following construction in order to have full vegetation accomplished in the shortest possible time using mitigation items listed under Vegetation Mitigation.
22. Roads shall be maintained to insure erosion and sediment control.
23. Any snow removal shall be done in a manner which will protect all resources, including water quality. Snow berms shall not be left that will allow channelization or concentration of melt water on the road or erosive surfaces.
24. Operator shall prevent, control, and monitor noxious weeds.
25. Reserve pit restoration methods, such as recontouring techniques, and specific erosion control measures, that provide positive protection to both ground and surface water, will be utilized
26. Drilling operations shall not involve the use of hazardous materials as additives to the drilling mud. Should hazardous substances be encountered during drilling, they will either be contained in the pit or in holding tanks, and will be disposed of in accordance with applicable State and Federal regulations.
27. The Forest Service shall not permit permanent disposal of garbage, residue, or drilling muds or their constituents on National Forest lands if they contain or are suspected to contain reportable quantities of hazardous substances as defined in 40 CFR 302.4, unless they are permanently immobilized in place. Operators will be required to provide at the time of reclamation, quantitative information that lists the types and amounts of hazardous substances contained in the reserve pit materials, and a plan for their permanent disposal. If hazardous substances are found to be present in reportable quantities such plans will specify how permanent disposal will be accomplished; if such materials are to be disposed of on National Forest lands, the plan shall contain an assessment of the risks (long and short-term) of having an uncontrolled release to the environment in using such disposal method(s).
28. Hydrocarbons shall not be allowed to enter the reserve pit. Such materials will be placed in reserve tanks for subsurface disposal (downhole disposal) or disposal off site.
29. Wellbore shall be lined with appropriate casing materials for the prevention of groundwater contamination. These measures will all be used with Onshore Order No. 2.
30. A cement bond log shall be required for the surface casing to assure proper cementing to prevent migration of fluids and/or gasses and to ensure protection of all surface water.

C. RESOURCE SPECIFIC GUIDELINES

Air Quality, Health and Safety

1. The operator shall water roads and limit road use during dust prone periods, and other dust abatement measures shall, at the request of the Forest Service, be used to minimize dust problems.
2. Warning signs indicating the possible presence of hydrogen sulfide gas shall be posted by the operator in the project area.

3. To reduce pollutants from machinery and vehicles, the operator shall maintain and use all applicable pollution control devices on internal combustion engines.

Access Management and Reclamation

1. Use of project roads shall be restricted to personnel directly associated with the drilling project. Traffic control devices shall be erected and maintained by the operator to restrict entry to the project area.
2. During the window of operations road guards shall be provided to ensure that road use restrictions are followed.
3. Interim reclamation will be required at the discretion of the Forest Service to control erosion and runoff after each season of operation.
4. Final reclamation of the well pad and access roads shall be conducted by the operator in accordance with recommendations in Appendix K of the Final EIS. Reclamation requirements for the project are summarized as follows:

- a. Most of the proposed access road between U.S. Highway 2 and the South Fork of the Two Medicine River is located on private land. Reclamation on private lands is subject to agreement between the lessee and the landowner.

- b. The well pad and all access roads constructed across National Forest land shall be closed and reclaimed by restoring the road prism back to the original contour and revegetating with natural-like or native species.

- c. All bridges and culverts on National Forest land (including the bridge over the South Fork of the Two Medicine River) shall be removed and the stream bank character restored.

All reclamation work will be prescribed in a reclamation plan provided by the operator and approved by the Forest Service prior to bond determination. Reclamation work shall be accomplished no later than the end of the second operating window following completion of the drilling operation.

5. All completed reclamation work, including revegetation and noxious weed control, shall be approved by the Forest Service prior to release of the performance bond. Approval shall be no sooner than October 1 of the second year following completion of final revegetation work.
6. The reclamation plan shall specify seed species and seeding rates used for final reclamation.

Wildlife

1. Road and pad layout shall be reviewed by a Forest Service wildlife biologist to ensure impacts to wildlife habitat are minimized, and that mitigation measures are followed as close as possible.
2. To minimize the effects to wildlife while on seasonal ranges, the window of operation shall begin on July 1 and end on November 30.
3. "Dog-legs", or visual barriers shall be designed into roads and pipelines built through dense vegetative cover areas to prevent straight corridors exceeding one-fourth mile.
4. Operators shall bus crews to and from the drill site to reduce activity levels on roads. Shift changes should be scheduled to avoid morning and evening wildlife feeding periods. This is normally from one-half hour before sunrise to one-half hour after sunrise and one-half hour before sunset to one-half hour after sunset.

5. Dogs and firearms on site during work periods or in vehicles traveling to and from work locations is prohibited.
6. All garbage generated by the operator shall be incinerated daily or stored in bear proof containers and removed to local landfill dumps daily.
7. A crew camp is prohibited on National Forest System lands.
8. No incidental take of threatened and endangered species is authorized. Should any take occur, the Forest Service must re-initiate formal consultation with the U.S. Fish and Wildlife Service and provide the circumstances surrounding the take. The drilling operation may be suspended during the consultation process.

Vegetation

1. Disturbed sites shall be revegetated with native vegetation or seed mixtures appropriate for the area. Long term emphasis should be on reestablishing vegetation which is known to be important for food or cover for grizzly bears or other wildlife, and on reestablishing those vegetative species which are adaptable to the site conditions and compatible with existing vegetation. The Forest Service will provide a seed mixture formula.
2. The well site shall be excluded from domestic livestock grazing. The operator shall fence off the area until vegetative establishment is complete.
3. Forest Service practices, as identified in the Noxious Weed Management EIS for the Lewis and Clark National Forest for the prevention, control and monitoring of noxious weeds shall be implemented. These include the following:

An information and education program(s) for the workers, designed to emphasize practices that prevent resource degradation and spread of noxious weeds, shall be prepared by the Forest Service and made available to the drilling contractors and their families. Operators are responsible for disseminating such information to their employees and their contractors.

Vegetation cover, preferably a closed plant community adapted to the site, shall be established and maintained to limit the encroachment of noxious weeds. Prompt revegetation where mineral soil is exposed by activities, such as road construction will be accomplished. Seed mixture for revegetation will be based on species adaptation to the specific site conditions, ease of establishment and seed availability.

Seed of competing species, adapted to the site, shall be applied to areas treated for noxious weed control, where noxious weed treatment leaves soil and vegetation conditions vulnerable to re-invasion and reoccupancy by noxious weeds.

Noxious weed control shall be undertaken to ensure that noxious weeds are eradicated from disturbed sites.

4. Prior to initiating surface disturbance the operator shall institute the following measures to prevent the introduction of noxious weed seeds or plant materials:

Gravel and fill material shall come from sources that are free of noxious weeds.

Construction equipment and drilling rigs shall be clean and free of noxious weed seeds before entering the work site.

Outdoor Recreation

1. Motorized vehicles shall be equipped with OEM muffling equipment to minimize impacts of noise on recreation users in the area.

Visual Resources

1. Rocks left as a result of construction activities shall be randomly spaced in irregular shaped piles of varying size to create as natural an appearance as possible.
2. Areas of surface disturbance will be located, when practical, to minimize the visual impact on the landscape. All areas of disturbance and improvements will be designed and constructed to blend with the surrounding areas. Vegetation used for stabilization and reclamation will be chosen so that a harmonious appearance with the surrounding area may be achieved.
3. To meet Forest Plan mitigation requirements and to reduce visual impacts of oil and gas activities to traditional Blackfeet religious practitioners, recreation users, and others, a Forest Service landscape architect will review project location plans and develop mitigation measures to protect visual resources.
4. The operator shall dispose of all debris immediately following road and site construction, either by burning, hauling or use as filter windrows.
5. Road right-of-way clearings shall be designed to minimize clearing width and feather vegetation edges to minimize a straight edged, artificial look.
6. During non-operational periods, the rig mast shall be lowered if mechanically feasible to reduce visual impacts.

Cultural Resources

1. Prior to any construction activity, Fina shall provide the Blackfeet Tribal Business Council and the Forest Service with a schedule of when work is to be performed. Fina shall provide this schedule to the *Glacier Reporter* and *Great Falls Tribune* in order to inform local individuals of proposed activities that may affect their legal, cultural, or religious interests.

Archaeological Resources

1. Effects to NRHP eligible or listed cultural resources shall be mitigated according to the regulations outlined in Section 106 of the National Historic Preservation Act and 36 CFR 800.
2. If an archaeological site is located during construction activities, work shall immediately stop and the Lewis and Clark National Forest Supervisor's Office be notified. The Forest Archaeologist will examine the site and determine what course of action is necessary. Actions could include the following: 1) data recovery, 2) avoidance of the sites and/or project relocation, 3) protection of intact materials, such as with a gravel pad.

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